

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JOHN SCHICOBRA YOUNG,

Plaintiff,

v.

22-CV-6555-MAV  
ORDER

NEW YORK STATE DEPARTMENT  
OF CORRECTIONS AND  
COMMUNITY SUPERVISION, et al.,

Defendants.

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On March 14, 2025, New York State Department of Corrections and Community Supervision (“DOCCS”) filed a Second Motion to Dismiss Plaintiff’s claims. ECF No. 29. The Court’s Decision and Order granting DOCCS’ motion to dismiss, filed June 3, 2024, moots this motion with respect Plaintiff’s only claim against DOCCS. ECF No. 30 (granting ECF No. 18).

DOCCS’ Second Motion to Dismiss also seeks dismissal of the new Eighth Amendment claims raised by Plaintiff against John Doe I and John Doe II in his Second Amended Complaint. ECF No. 29 (addressing ECF No. 27). The Attorney General’s Office acknowledges it does not represent the John Doe defendants but nonetheless argues that the Court must dismiss Plaintiff’s Eighth Amendment claims as untimely. *Id.* at 6, 12–13. The Court declines to do so.


DOCCS cannot move to dismiss claims raised against other defendants. *Cf. United States v. Bennett*, 190 F. Supp. 181, 182 (S.D.N.Y. 1958). Even if it could do so, the pleading requirements in the Federal Rules of Civil Procedure do not compel

a litigant to anticipate potential affirmative defenses, such as the statute of limitations, and to affirmatively plead facts in avoidance of such defenses. *Abbas v. Dixon*, 480 F.3d 636, 640 (2d Cir. 2007) (reversing district court's *sua sponte* dismissal of a complaint for untimeliness where the district court evaluated the face of the complaint and found “no basis to toll the limitations period”). Instead, Rule 8 requires a plaintiff to provide only “a short and plain statement of the claim showing that the pleader is entitled to relief.” *Id.* (quoting Fed. R. Civ. P. 8).

DOCCS' Second Motion to Dismiss, ECF No. 29, is DENIED.

SO ORDERED.

Dated: March 21, 2025  
Rochester, New York

  
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HON. MEREDITH A. VACCA  
UNITED STATES DISTRICT JUDGE